

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: MDL Docket No 06-1791 VRW  
NATIONAL SECURITY AGENCY ORDER  
TELECOMMUNICATIONS RECORDS  
LITIGATION

This document relates to:

Schubert et al v Bush et al, No  
C 07-0693

On May 5, 2009, the plaintiffs herein submitted to the court a letter advising the court of the Ninth Circuit's April 28, 2009 opinion in Mohamed v Jeppesen Dataplan, Inc, No 08-15693. Doc #25/MDL Doc #610. Referring to the instant case, the letter notes that "[t]he government moved to dismiss the entire case on state secrets grounds in May 25, 2007 [sic] and oral argument on the motion took place on August 30, 2007." The letter makes no reference to the fact that the motion in question, MDL Doc #295, was terminated by order of the court on March 31, 2008 with express leave granted to the moving party to "petition the court to reopen these motions if the circumstances so warrant." Doc #438.

1 To date, the United States has not petitioned the court  
2 to reopen the motion to dismiss this case. Should the United  
3 States ever do so, it is directed to address in its petition the  
4 applicability of the Ninth Circuit's opinion in Mohamed v Jeppesen  
5 Dataplan.

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7 IT IS SO ORDERED.

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10 VAUGHN R WALKER  
11 United States District Chief Judge  
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